



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

VIA E-MAIL

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2nd & Chestnut Streets, 7th Floor
Philadelphia, PA 19106*

January 25, 2022

Louis A. Pellegrino
Assistant U.S. Attorney
U.S. Attorney's Office for the
Southern District of New York
1 St. Andrew's Place
New York, New York 10007

Re: United States v. Todd Kozel
Crim. No. 1:19-cr-00460 (KMW) (S.D.N.Y.)

Dear Mr. Pellegrino:

Thank you for your recent inquiry concerning the Federal Bureau of Prisons' (BOP) ability to provide adequate health care for federal prisoners with significant, acute, or chronic medical conditions. Specifically, you have asked whether, based on the available information, the BOP can provide the necessary and appropriate care for Mr. Todd Kozel should he be sentenced to a term of incarceration in a federal correctional facility.

I am aware of Mr. Kozel's medical conditions as described in the documents provided to this office. Specifically, this office has been provided with Mr. Kozel's expert's letter, treating physicians' letters, and relevant portions of his presentence investigation report. Those documents indicate Mr. Kozel suffers from various conditions, including but not limited to: decreased cognitive function post-COVID 19 infection; pharyngeal squamous cell carcinoma for which he was treated with chemo and radiation therapy; oral mucous ulcers, radiation mucositis and oropharyngeal candidiasis; hypotension; severe dry mouth. Those documents further indicate that Mr. Kozel will require additional specialty follow up for his cancer, and that he is unvaccinated for COVID due to medical reasons related to his cancer.

The BOP has implemented a medical care level classification system. The care level classification system is intended to enhance the BOP's ability to manage inmate health care effectively by matching inmates with those institutions that can best meet their medical needs, while at the same time achieving optimal use of the BOP's health care resources.

If committed to the custody of the BOP, Mr. Kozel may be reviewed

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for designation by the BOP Office of Medical Designations and Transfers. At that time, a determination would be made as to the appropriate facility, either a Federal Medical Center or a general population institution, in which to designate Mr. Kozel.

Federal Medical Centers are prisons that provide in-patient care to seriously ill inmates. The BOP has seven of these centers throughout the United States. Besides providing chronic care for seriously ill inmates, these medical centers also provide services such as chemotherapy, pain management clinics, dialysis, and hospice care for terminally ill inmates. Each medical center also has a long-term unit for inmates requiring 24-hour nursing care.

BOP institutions are accredited by the Joint Commission on Accreditation for Health Care Organizations, which sets the medical, surgical, and psychiatric standards for hospitals nationwide. Additionally, each BOP institution contracts with medical centers in the local vicinity to provide specialized medical treatment. These medical centers offer the BOP a wide range of trained specialists and diagnostic tools such as MRIs and CT Scans. If needed, the BOP would be able to provide Mr. Kozel with medical specialists through the BOP's contractual agreements. While it is true many of these specialists are not located inside the institution, the BOP has procedures in place to transport inmates to and from local hospitals and other contracted medical centers so that inmates can receive appropriate and necessary care. Further, when medical emergencies and the need for surgical procedures arise, each institution has procedures in place that instruct health services and/or correctional staff on how to contact local emergency medical services for transportation to a local medical center.

Every BOP facility, regardless of care level, has a Health Services Department, typically staffed with a physician(s) and mid-level providers, such as physician assistants and nurse practitioners, along with technical and administrative staff. Most Health Services Departments conduct "sick-call" four or more days per week for the entire inmate population.

All inmates entering our facilities are thoroughly screened by medical staff for physical and mental health conditions. They are monitored thereafter through follow-up appointments and chronic care clinics, as necessary. A medical plan of action for an inmate includes a thorough and timely history and physical exam to ascertain the mental health and medical status of each inmate upon their arrival to a BOP facility. Following this screening, the treating Clinical Director and Chief Psychologist may formulate a plan that addresses his/her medical, mental health and activities of daily living. This plan may include assessment of the daily functioning, i.e., handicap living quarters, need for a bottom bunk, ambulatory aides or bracing, inmate companion for assistance of activities of daily living, pharmacy line oversight, psychological care and therapies, specialty consultations, etc.

Every general population institution runs a number of chronic

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care clinics whose purpose it is to provide routinely scheduled quality care to medically ill inmates, as well as to stay cognizant of any changes in medical conditions that may arise. If Mr. Kozel is designated to a general population institution, it is likely he would be assigned to the Cardiac, Hypertension, Endocrinology/Lipid, Mental Health, Gastroenterology, Diabetes, Orthopedic/Rheumatology, and Pulmonary Chronic Care Clinics. Inmates enrolled in chronic care clinics are seen as often as medically necessary. If incarcerated, it would be helpful if Mr. Kozel provides medical records to his treating physician at the institution in order for the physician to obtain a full medical history.

The BOP has an extensive National Formulary of medications approved for inmate use. If Mr. Kozel is prescribed medications that are not explicitly on the Formulary, substantially similar equivalents would be prescribed. Finally, if a substantially similar equivalent is not available, a non-Formulary request can be made by his treating clinician to the BOP's Central Office in Washington, D.C. Non-formulary requests can usually be accomplished within 36 hours of the clinician's request. If Mr. Kozel is incarcerated, he should bring all current medications with him upon self-surrendering to his designated facility. The medications will then be reconciled with medications from the National Formulary.

Based on the information provided to me and my knowledge of the BOP's medical resources, the BOP will be able to provide appropriate care for Mr. Kozel should he be sentenced to a term of incarceration and committed to the custody of the BOP. For your convenience, I have attached a general outline to explain how the BOP designates prisoners with medical illnesses and to describe the medical services available within the BOP.

Sincerely,

Diane Sommer, MD

Diane Sommer, MD
Regional Medical Director
Northeast Region